

Vanessa R. Waldref  
United States Attorney  
Eastern District of Washington  
Michael D. Murphy  
Assistant United States Attorney  
402 E. Yakima Ave., Suite 210  
Yakima, WA 98901  
Telephone: (509) 454-4425

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Plaintiff, United States of America, by and through Vanessa R. Waldref, United States Attorney for the Eastern District of Washington, and Michael D. Murphy, Assistant United States Attorney, submits the following sentencing memorandum. The Government is seeking a sentence of twenty-three months in prison, a fine of fifty thousand dollars, and three years of supervised release:

1 I.  
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4 SENTENCING CALCULATIONS  
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7 The Government agrees with the sentencing guidelines calculations in the  
8 PSIR (ECF 34). The PSIR sets out a guideline range of thirty to thirty-seven  
9 months with a criminal history category of 1. ECF No. 34 ¶ 96.  
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12 II.  
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15 GOVERNMENT'S OBJECTION TO PSIR  
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18 The Government has no objections to the PSIR (ECF 34).  
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21 III.  
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24 SENTENCING FACTORS UNDER 18 U.S.C. §3553(a)  
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27 The Guidelines are the starting point and the initial benchmark for the  
28 sentencing process. *Kimbrough v. United States*, 128 S. Ct. 558 (2007). The Court  
“take[s] into account the totality of the circumstances” to determine whether a  
sentence is reasonable. *Gall v. United States*, 128 S. Ct. 586, 597 (2007).

29 1. The nature and circumstances of the offense and the history and  
30 characteristics of Defendant.

31 In the instant case, the Defendant engaged in a business of selling anabolic  
32 steroids over the “dark web” from at least February, 2018 until a confederate was  
33 arrested in February, 2020. ECF No. 34 ¶¶ 16, 17, 21. His dark web business  
34 resulted in the distribution of thousands of units of anabolic steroids, in total, over  
35 one hundred and fifty thousand units of actual distribution along with the seizure of  
36

1 over twenty-nine thousand additional units. *Id.* at ¶ 30. The Defendant is thirty-  
2 three years old and has minimal criminal history, leading to a criminal history  
3 score of zero and a criminal history category of I. ECF No. 34 ¶¶ 47-55, 56.  
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5 **2. The need for the sentence imposed to reflect the seriousness of the**  
6 **offense, promote respect for the law, and to provide just punishment.**

7 The Defendant is a self-employed businessman and, during the time of his  
8 Dark Web activity and steroid sales, owned and operated a company for personal  
9 training and lifting gear. ECF 34, ¶ 88. Despite that, he also operated a Dark Web  
10 site and used it to distribute tens of thousands of units of anabolic steroids. The  
11 Defendant's motive appears to be purely that of profit, beyond that he was making  
12 through legitimate means. On the other hand, the Defendant has accepted  
13 responsibility and sought to avoid further criminal conduct. ECF 34, ¶¶ 26, 89.  
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15 Given the circumstances the Defendant should receive some prison time to  
16 promote respect for the law, but a just sentence is under the guideline range.  
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19 **3. The need for the sentence imposed to afford adequate deterrence to**  
20 **criminal conduct.**

21 The proposed sentence shows the Defendant that there are consequences for  
22 his actions, and if he fails to act in accordance with the law, there could be  
23 punishment. Hopefully, a nearly two-year prison sentence will deter the Defendant  
24 from engaging in criminal conduct again. In addition, a criminal fine is  
25 appropriate. The Defendant has the resources to pay a fine. ECF 34, ¶ 94. As  
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1 previously mentioned, the Defendant operated a web site through which he sold  
2 very large quantities of anabolic steroids. Defendant owes substantial back taxes.  
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4 *Id.* at ¶ 93. However, that is a separate issue from the imposition of a fine as  
5 punishment for criminal conduct. *See United States v. Leonard*, 67 F.3d 460, 462  
6 (2d Cir. 1995) “[...][T]he payment of back taxes and interest is a sanction that is  
7 more compensatory than punitive; and civil tax penalties owing under Title 26  
8 irrespective of the existence of a criminal prosecution are not a substitute for the  
9 punitive fines required by Title 18 in the event of such a prosecution and  
10 conviction.”). A significant monetary penalty will serve both general and specific  
11 deterrence of those who set up companies on the dark web to sell illicit products.  
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16 4. The need for the sentence imposed to protect the public from further  
17 crimes of Defendant.

18 The Defendant is a danger to the community based upon his conscious  
19 engagement in an internet enterprise advertising, selling, packaging, and shipping  
20 anabolic steroids for at least two years. Twenty-three months of imprisonment  
21 followed by three years of supervised release should protect the public from further  
22 crimes of the Defendant.  
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26 5. The need for the sentence imposed to provide Defendant with needed  
27 educational or vocational training, medical care, or other correctional  
28 treatment in the most effective manner.

1 The Defendant does appear to be in need of educational and/or vocational  
2 training. ECF 34, ¶¶ 86, 89. The Defendant has independently addressed a  
3 substance abuse issue. ECF 34, ¶¶ 82, 85. Three years of supervised release after a  
4 two-year prison sentence would allow him an opportunity to pursue further  
5 education and employment while being supervised by probation.  
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9 IV.  
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11 GOVERNMENT'S SENTENCING RECOMMENDATION  
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13 The government recommends that the Court impose a sentence of twenty-  
14 three months in prison, a fine of fifty thousand dollars, and three years of  
15 supervised release.  
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18 Respectfully submitted this 16th day of May 2022.  
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20  
21 VANESSA R. WALDREF  
22 United States Attorney  
23

24 s\ Michael D. Murphy  
25 MICHAEL D. MURPHY  
26 Assistant United States Attorney  
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1 I hereby certify that on May 16, 2022, I electronically filed the foregoing  
2 with the Clerk of the Court using the CM/ECF which will send notification of such  
3  
4 filing to counsel for the Defendant

5  
6 s\ Michael D. Murphy  
7 MICHAEL D. MURPHY  
8 Assistant United States Attorney  
9 United States Attorney's Office  
10 402 E. Yakima Ave., Suite 210  
11 Yakima, WA 98901  
12 (509) 454-4425  
13 Fax (509) 454-4435  
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